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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/698,705	10/27/2000	Brigitte Devaux	P1777R1	6130	
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Attn: Lee K. Tan Genentech, Inc. 1 DNA Way South San Francisco, CA 94080-4990		•	EXAMI	EXAMINER	
			YU, MISOOK		
			ART UNIT	PAPER NUMBER	
		•	1642	7 (
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Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	•					
Examiner		Application No.	Applicant(s)			
MISOOK YU, Ph.D. 1642	Office Action Summer	09/698,705				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the previous of 3 CFR 1.18(e). In or event, however, may a raply be timely filled after SN, (6) MCNTHS was the mailing date and accommonation, reply within the statistic ry previous of the previous of 3 CFR 1.18(e). In or event, however, may a raply be timely filled after SN, (6) MCNTHS was the mailing date of the previous of 3 CFR 1.78(e). If NO period for eply is specified body, the maximum statutory period vill legislo, in or event, however, may a raply be timely filled. If NO period for eply is specified body, the maximum statutory period vill legislo vill (PC) (PC) (PC) (PC) (PC) (PC) (PC) (PC)	Onice Action Summary					
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provides of 37 CPR 1.36(a). In or event, however, may a reply be timely filed after SIX (5) MONTIST from the realing date of this communication. It is provided to make the six that the control of the communication of the provided state of the state of the communication of the provided state of the state of the communication of the provided state of the state of the communication of the provided state of the communication of the provided state of the provided stat		ears on the cover sheet with the C	correspondence address			
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The Examiner of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Misook Yu.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 5, 2003 has been entered.

Claims 1-15, 18-32, 34-57 are pending. Claims 1-14, 22-28, 34-57 remain withdrawn for reason of record. Claims 15, 18-21, and 30-32 are examined on merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15, 18-21, and 30-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 15, 18-21, and 30-32 recite specific cell lines. and the

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specification at pages 73 and 74 says that the cell lines are deposited under Budapest Treaty.

It is apparent that the specific cell lines are required to practice the claimed invention because they are specifically required in the claims. As required element it must be known and readily available to the public or obtainable by a repeatable method set forth in the specification, or otherwise readily available to the public. If it is not so obtainable or available, the enablement requirements of 35 U.S.C. § 112, first paragraph, may be satisfied by a deposit of the cell lines listed. See 37 CFR 1.802.

The specification does not provide a repeatable method for obtaining the cell lines of claims 15 and 19. Applicant's deposit statement in the specification at pages 73 and 74 does not indicate the extent of public availability. If the deposit is made under the terms of the Budapest Treaty, then an affidavit or declaration by applicants or someone associated with the patent owner who is in a position to make such assurances, or a statement by an attorney of record over his or her signature, stating that the deposit has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent, would satisfy the deposit requirements. See 37 CFR 1.808.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU, Ph.D. whose telephone number is 703-

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308-2454. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony C Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Misook Yu July 24, 2003

MARY E. MOSHER PRIMARY EXAMINER GROUP 12800

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